

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 05/27/2015

TIME: 08:20:00 AM

DEPT: 43

JUDICIAL OFFICER PRESIDING: Kevin DeNoce

CLERK: Tiffany Froedge

REPORTER/ERM: None

CASE NO: **56-2014-00458073-CU-AS-VTA**

CASE TITLE: **Robert Denyer vs AB Electrolux**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Asbestos

EVENT TYPE: Motion to Compel further responses to demand to produce for inspection and copying , set one; Req. for sanct. of \$1505.50 against pltf; Memo of p&a's;
MOVING PARTY: Goodman Manufacturing Company LP
CAUSAL DOCUMENT/DATE FILED: Motion to Compel further responses to demand to produce for inspection and copying , set one; Req. for sanct. of \$1505.50 against pltf; Memo of p&a's; Decl. of Mateusz M. Jedrzejek in supp thereof, 04/22/2015

APPEARANCES

Stephen M. Fishback, counsel, present for Plaintiff(s).

Matt Jedrzejek, specially appearing for counsel ROBERT W. ARMSTRONG, present for Defendant(s).

At 08:47 a.m., court convenes in this matter with all parties present as previously indicated.

Counsel have received and read the court's written tentative ruling.

Mr. Fishback notifies the court that Plaintiff, Mr. Denyer, has passed away. Further, he cannot comply due to not currently having a client until an amended complaint has been filed to add wrongful death and survival action.

Defendant Goodman submit on the Court's tentative ruling.

Matter submitted to the Court with argument.

The Court finds/orders:

As of now:

The court date of 09/14/15 remains as previously ordered.

The court date of 06/10/15 remains as previously ordered.

The court date of 06/23/15 remains as previously ordered.

The Court's tentative is adopted as the Court's ruling.

The court's ruling is as follows:

Motion (1):

Grant Defendant Goodman Manufacturing, L.P.'s request for an order compelling Plaintiff Robert Denyer to provide further responses to form interrogatories (set no. 1). The Court notes that Plaintiff contends that supplemental responses he served during the pendency of this motion render the motion moot. However, Defendant's motion would only be rendered moot by the service of supplemental responses to the extent those supplemental responses cure the deficiencies in Plaintiff's original responses. Plaintiff fails to submit his supplemental responses to the Court, and therefore fails to demonstrate that these supplemental responses cure all (or any) of numerous deficiencies in his original responses. Moreover, by failing to submit a copy of the supplemental responses to the Court, Plaintiff has prevented the Court from considering them in ruling on this motion. Accordingly, the Court rules on the motion solely based on Plaintiff's original responses to the requests.

Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with (a) further responses to form interrogatories nos. 2.8, 4.1, 6.7, 8.1, 8.7, 8.8, 9.1, 9.2, 10.1, 10.2, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 14.1, 14.2 which omit all objections, and provide the information requested to the extent Plaintiff is reasonably able to do so; and (b) a further response to form interrogatory no. 17 which omits all objections, includes a separate response identifying the requested facts/witnesses/documents/etc. as to each request for admission which Plaintiff Robert failed to unqualifiedly admit, and provide all of the information requested.

Deny Defendant Goodman's request for monetary sanctions, solely on the ground that there is a procedural defect in Goodman's sanctions request which precludes any such award of sanctions. Specifically, *Code of Civil Procedure* section 2023.040 provides that: "A request for a sanction shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. The notice of motion shall be supported by a memorandum of points and authorities, and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought." Here, Goodman's Notice of Motion request sanctions against "plaintiff," fails to specify by name which of the two plaintiffs Goodman is seeking sanctions against. It is not, in fact, until the Moving Brief that Goodman provides any indication that the motions are directed against Plaintiff Robert Denyer, and not Plaintiff Gertrude Denyer. Accordingly, Goodman's Notices of Motion do not "identify... [the] party ... against whom the sanction is sought...." The language of section 2023.040 is mandatory ("shall ... identify"), and Goodman's failure to comply with this provision mandates a denial of Goodman's requests for sanctions.

Motion (2):

Grant Defendant Goodman Manufacturing, L.P.'s request for an order compelling Plaintiff Robert Denyer to provide further responses to special interrogatories (set no. 1). The Court notes that Plaintiff contends

that supplemental responses he served during the pendency of this motion render the motion moot. However, Defendant's motion would only be rendered moot by the service of supplemental responses to the extent those supplemental responses cure the deficiencies in Plaintiff's original responses. Plaintiff fails to submit his supplemental responses to the Court, and therefore fails to demonstrate that these supplemental responses cure all (or any) of numerous deficiencies in his original responses. Moreover, by failing to submit a copy of the supplemental responses to the Court, Plaintiff has prevented the Court from considering them in ruling on this motion. Accordingly, the Court rules on the motion solely based on Plaintiff's original responses to the requests.

Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with further responses to special interrogatories (set no. 1) nos. 3-10, 12-14, 16-18, 20-22, 24-26, and 28-33 which (a) omit all objections; and (b) cure the following deficiencies in the substantive portions of Plaintiff's responses:

As to interrogatory no. 3, Plaintiff's response is non-responsive in that it fails to describe the actual Goodman products that Plaintiff breathed asbestos from, and instead merely contains a very general description of asbestos-containing products allegedly manufactures/supplied/sold/brokered/distributed by Goodman or Amana (allegedly Goodman's predecessor-in-interest). As to interrogatory no. 4, Plaintiff fails to provide the specific locations (i.e., addresses or names of sites, rather than just company names and city/county) where he allegedly breathed asbestos fibers released from a product manufactured/marketed by Goodman. As to interrogatory no. 5, Plaintiff does not identify the witnesses separately for each location requested in interrogatory no. 4, and should be required to do so. As to interrogatory no. 6, Plaintiff does not respond to the question separately for each location requested in request no. 4. As to interrogatory no. 7, Plaintiff's response is non-responsive, as the interrogatory asks Plaintiff to describe with specificity that packaging of each asbestos-containing Goodman product Plaintiff was exposed to, and Plaintiff responds by identifying "all of Defendant's product sample or exemplars, boxes, cartons, containers, canisters, and packaging materials." Plaintiff has neither limited his response to Goodman products he was exposed to, nor has he provided any specific descriptions. As to interrogatory no. 8, Plaintiff's response fails to separately identify documents ass to the each of the locations requested in interrogatory no. 4, and is also grossly overbroad in that it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of documents that support Plaintiff's contention that he breathed asbestos fibers from a Goodman product at a specified location. Similarly, Plaintiff's answer to interrogatory no. 10 is also grossly overbroad in that it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of documents that support Plaintiff's contention that he was exposed to asbestos fibers from a product manufactured or marketed by Goodman.

As to interrogatory no. 13, Plaintiff's response is non-responsive, because its fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for negligence. As to interrogatory nos. 14, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's negligence claim. As to interrogatory no. 17, Plaintiff's response is non-responsive, because its fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for strict liability. As to interrogatory no. 18, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's strict liability claim.

As to interrogatory no. 21, Plaintiff's response is non-responsive, because its fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for strict false representation.

As to interrogatory no. 22, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for false representation. As to interrogatory no. 25, Plaintiff's response is non-responsive, because its fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for intentional tort.

As to interrogatory no. 26, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for intentional tort. As to interrogatory no. 29, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for punitive damages. As to interrogatories nos. 30 and 33, Plaintiff failed to provide any substantive response and, due to Plaintiff's failure to justify any of his objections, is required to do so. As to interrogatory no. 31, Plaintiff's response is non-responsive in that he neither breaks down its response as to each product, nor provides any list of components of such products that contained asbestos allegedly breathed by Plaintiff. As to interrogatory no. 32, Plaintiff's response is entirely non-responsive.

As previously noted, the Court denies Defendant Goodman's request for monetary sanctions, solely on the ground that there is a procedural defect in Goodman's sanctions request which precludes any such award of sanctions, i.e., specifying by name which of the two plaintiffs Goodman is seeking sanctions against. (CCP § 2023.040.)

Motion (3):

Grant Defendant Goodman Manufacturing, L.P.'s request for an order compelling Plaintiff Robert Denyer to provide further responses to requests for production (set no. 1). The Court notes that Plaintiff contends that supplemental responses he served during the pendency of this motion render the motion moot. However, Defendant's motion would only be rendered moot by the service of supplemental responses to the extent those supplemental responses cure the deficiencies in Plaintiff's original responses. Plaintiff fails to submit his supplemental responses to the Court, and therefore fails to demonstrate that these supplemental responses cure all (or any) of numerous deficiencies in his original responses. Moreover, by failing to submit a copy of the supplemental responses to the Court, Plaintiff has prevented the Court from considering them in ruling on this motion. Accordingly, the Court rules on the motion solely based on Plaintiff's original responses to the requests.

Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with further responses to requests for production nos. 1 through 9 and 11 which (a) omit all objections – with the possible exception of attorney-client privilege and attorney work-production as indicated below; (b) to the extent Plaintiff wishes to maintain his objections based on attorney-client privilege and attorney work product, are accompanied by a verified privilege log which identifies each document or portion of a document being withheld based on an assertion of privilege, which privilege is being asserted as to each document or portion of document being so withheld, and the request or requests to which that document

is responsive; and includes a description of the document or portion of document in sufficient detail to allow Defendant (and the Court, if it later becomes necessary) to evaluate the appropriateness of the assertion of privilege; and (c) contains a substantive statement which fully complies with the requirements of Code of Civil Procedure §2031.220, and does not merely "identify" a grossly overbroad universe of places in which responsive documents might potentially be found. Note that because Plaintiff has failed to justify (or even attempt to justify) any of his objections to these requests, the only responsive documents in his possession, custody, or control which he is entitled to withhold from production will be those set forth in his verified privilege log.

As previously noted, the Court denies Defendant Goodman's request for monetary sanctions, solely on the ground that there is a procedural defect in Goodman's sanctions request which precludes any such award of sanctions, i.e., specifying by name which of the two plaintiffs Goodman is seeking sanctions against. (CCP § 2023.040.)

Motion (4):

Grant Defendant Goodman Manufacturing, L.P.'s request for an order compelling Plaintiff Robert Denyer to provide further responses to requests for admissions (set no. 1). The Court notes that Plaintiff contends that supplemental responses he served during the pendency of this motion render the motion moot. However, Defendant's motion would only be rendered moot by the service of supplemental responses to the extent those supplemental responses cure the deficiencies in Plaintiff's original responses. Plaintiff fails to submit his supplemental responses to the Court, and therefore fails to demonstrate that these supplemental responses cure all (or any) of numerous deficiencies in his original responses. Moreover, by failing to submit a copy of the supplemental responses to the Court, Plaintiff has prevented the Court from considering them in ruling on this motion. Accordingly, the Court rules on the motion solely based on Plaintiff's original responses to the requests.

Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with further responses to the subject requests for admissions which (a) omit all objections; and (b) include statements of inability to admit or deny which fully comply with the requirements of *Code of Civil Procedure* §2033.220(c). In particular, Plaintiff's statements of inability to admit or deny these requests omit the required statement that the information known or readily obtainable to Plaintiff is insufficient to enable that party to admit the matter.

As previously noted, the Court denies Defendant Goodman's request for monetary sanctions, solely on the ground that there is a procedural defect in Goodman's sanctions request which precludes any such award of sanctions, i.e., specifying by name which of the two plaintiffs Goodman is seeking sanctions against. (CCP § 2023.040.) Despite the lack of sanctions, the Court is putting Plaintiffs' counsel on notice that the discovery responses at issue in the present motion are not acceptable, and that given Plaintiff's request for an expedited trial setting, continued discovery abuse of this kind could result in the imposition of evidentiary, issue, or other sanctions against Plaintiffs.

Discussion:

Defendant Goodman Manufacturing, L.P.'s Motions to Compel Plaintiffs Robert Denyer's further Responses to Form Interrogatories (Set No. 1), and for \$1,432.00 in Sanctions; to Compel Plaintiffs Robert Denyer's Further Responses to Special Interrogatories (Set No. 1), and for \$1,467.50 in Sanctions; to Compel Plaintiffs Robert Denyer's Further Responses to Requests for Production (Set No.

1), and for \$1,505.50 in Sanctions; and to Compel Plaintiffs Robert Denyer's Further Responses to Requests for Admissions (Set No. 1), and for \$1,304.00 in Sanctions.

Pursuant to *Code of Civil Procedure* section 2031.310(b), a motion to compel further responses to requests for production "shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand." Accordingly, on the present motion, Defendant Goodman bears the initial burden of demonstrating "good cause" for the subject requests or production. Here, the subject requests for production all seek documents directly relevant to Plaintiff Robert's claims and contentions against Goodman and Goodman's potential defenses thereto, including all documents (i) supporting Plaintiff Robert's contention that he was exposed to asbestos from any product manufactured or marketed by Goodman (request no. 1); (ii) containing any depiction or image of, or description of the appearance of, any asbestos-containing products for which Plaintiff Robert contends Goodman is responsible (request no. 2); (iii) supporting Plaintiff Robert's negligence claim against Goodman (request no. 3); (iv) supporting Plaintiff Robert's claim for strict liability against Goodman (request no. 4); (v) supporting Plaintiff Robert's claim for false representation against Goodman (request no. 5); (vi) supporting Plaintiff Robert's claim for "intentional tort" (request no. 6); (vii) supporting Plaintiff Robert's claim for punitive damages against Goodman (request no. 7); and (viii) relating to any claim or demand Plaintiff Robert made for damages/compensation/ benefits allegedly resulting from any asbestos-related injuries (request no. 8); (ix) identified and/or relied on in Plaintiff Robert's responses to special interrogatories (request no. 9); and (x) supporting Plaintiff Robert's claim for past, present, and future wage loss (request no. 9). Because all of these claims, on their face, go directly to Plaintiff Robert's claims and contentions in support of his claims and Goodman's potential defenses thereto, the Court should find that there is "good cause" for these requests.

Plaintiff Robert's Objections

Plaintiff Robert responded to all of the subject requests for production by raising various objections including attorney-client privilege, attorney work-product protection, vague and ambiguous, overbroad, compound, calls for a legal conclusion, calls for the evaluation/knowledge of an expert, assumes facts not in evidence, argumentative, and seeks information equally available to Goodman. As to request no. 8, Plaintiff Robert also objects on the ground that the request seeks production of confidential settlement information; and as to request no. 11, Plaintiff objects based on the "taxpayer privilege." Plaintiff Robert, as the party asserting objection to the requests for production, bears the initial burden of justifying them. (See *Coy v. Sup. Ct.* (1962) 58 Cal.2d 210, 220-221.) However, Plaintiff Robert fails to address any of his objections in his opposition papers at all, much less demonstrate that they are well-taken, and none of the objections are necessarily well-taken on their face.

As to Plaintiff Robert's assertion of attorney-client and attorney work product privileges, Plaintiff has failed to provide any evidentiary support for the application of these privileges, and has failed to produce a "privilege log" identifying privileged responsive documents and providing a sufficient description thereof to permit Goodman and the Court to evaluate the legitimacy of the assertions of privilege. If Plaintiff wishes to maintain his assertions of attorney-client privilege and attorney work product, Plaintiff is ordered to serve Defendant with a verified privilege log which (a) identifies each document responsive to each request as to which attorney-client privilege or attorney work product protection is being claimed, and identifies which privilege/protection is being asserted as to that document; and (b) describes each such document in sufficient detail to allow Goodman (and the Court, if it becomes necessary on a further

motion) to evaluate the assertion of privilege/protection.<o:p></o:p>

The Substantive Portions of Plaintiff Robert's Responses

The "substantive" portions of Plaintiff Robert's responses to these requests for production "identify" certain documents, but do not agree to produce any of them. As a result, the responses fail to comply with Code of Civil Procedure §2031.220, which provides that:

"A statement that the party to whom a demand for inspection, copying, testing, or sampling has been directed will comply with the particular demand shall state that the production, inspection, copying, testing, or sampling, and related activity demanded, will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production."

Plaintiff Robert's responses fail to indicate that he will comply either in whole or in part by producing the responsive documents in his possession, custody, or control. As such, the substantive portions of his responses fail to satisfy the requirements of §2031.220. The substantive portion of Plaintiff's Robert's responses are also deficient for another reason: they are grossly overbroad as to the documents they "identify," and are not limited to the documents actually requested by Defendants. For example, in response to request for production no. 1, which ask Plaintiff to produce documents supporting his contention that he was exposed to asbestos from any product manufactured/marketed by Goodman, Plaintiff "identifies" all of his medical records, all of his employment records, all of his social security records, Plaintiffs' entire depositions in this action, "all defendant's job files, invoices, supply logs, transfer transactions and sales receipts to any and all of the defendants in this case, and any premises owner or contractor identified in this case," all prior depositions of Goodman's "Persons Most Knowledgeable," all of Goodman's responses to written discovery, numerous unidentified articles and studies relating to the health hazards of asbestos, etc. This response is so overbroad as to be entirely non-responsive. Plaintiff is essentially describing a universe of documents which might be relevant to issues in this case: he is not identifying the documents which are relevant to the specific issue raised by this request: Plaintiff's exposure to asbestos from Goodman's products. Plaintiff's responses to requests nos. 3-6 and 9 are similar, and grossly overbroad for the same reasons.

Plaintiff's response to request no. 2 is equally deficient. In response to a request for production of any depiction or image of, or description of the appearance of, any asbestos-containing products for which Plaintiff Robert contends Goodman is responsible, Plaintiff merely identifies "all Defendant's product samples or exemplars, boxes, cartons, containers and packaging materials...." Once again, Plaintiff is merely identifying an overbroad universe of items/documents which might contain some items/documents which are responsive to the request.

As to request no. 7, which asks for documents supporting Plaintiff Robert's claim for punitive damages against Goodman, Plaintiff identifies unspecified "expert, medical, and economic reports to be designated by plaintiff's counsel." This is entirely non-responsive; nor is it clear why all documents responsive to this request would be a matter of expert opinion.

As to request nos. 8 and 11, Plaintiff's responses consist solely of objections, and there is no substantive portion of Plaintiffs' responses. Because Plaintiff fails to justify his objections, he should be required to provide substantive responses to these requests as well.

Plaintiff is ordered to serve Defendant Goodman's counsel within 20 days with further responses to requests for production nos. 1 through 9 and 11 which (a) omit all objections, (with the exception of attorney-client privilege and attorney work-product); (b) to the extent Plaintiff wishes to maintain his objections based on attorney-client privilege and attorney work product, are accompanied by a verified privilege log which identifies each document or portion of a document being withheld based on an assertion of privilege, which privilege is being asserted as to each document or portion of document being so withheld, and the request or requests to which that document is responsive; and includes a description of the document in sufficient detail to allow Defendant Goodman (and the Court, if it later becomes necessary) to evaluate the appropriateness of the assertion of privilege/protection; and (c) contains a substantive statement which fully complies with the requirements of Code of Civil Procedure §2031.220, and does not merely "identify" a grossly overbroad universe of places in which responsive documents might potentially be found.

Form Interrogatories

Goodman seeks an order compelling further responses to form interrogatories (set no. 1) nos. 2.8, 4.1, 6.7, 8.1, 8.7, 8.8, 9.1, 9.2, 10.1, 10.2, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 14.1, 14.2, and 17.1.

Plaintiff Robert's Objections

Plaintiff Robert responded to these form interrogatories with multiple objections, including attorney-client privilege, attorney work-product, vague and ambiguous, overbroad, right to privacy, the information was previously provided to Goodman, unduly burdensome and harassing, information equally available to Goodman, calls for the disclosure/testimony of an expert, unintelligible, compound, assumes facts not in evidence, and/or argumentative.

As noted above, Plaintiff Robert, as the party asserting objection to the form interrogatories, bears the initial burden of justifying them. Here, Plaintiff once again makes no attempt in his Opposition Brief to justify or support his objections to these interrogatories. Moreover, unlike with the requests for production, here there is no intermediate step available or required (i.e., requiring Plaintiff to provide a privilege log) with respect to Plaintiff's assertion of attorney-client privilege and attorney work product: Plaintiff is required to justify these assertions but fails to make any attempt to do so. Because Plaintiff fails to justify any of his objections to these interrogatories, he is ordered to provide further responses to the interrogatories which omit all objections.

The Substantive Portions of Plaintiff Robert's Responses

With the exception of form interrogatory no. 17.1, the "substantive" portion of Plaintiff's Robert's responses to these form interrogatories simply referred Goodman to Plaintiff's responses to Defendant CBS Corporation's ("CBS") Form Interrogatories. Plaintiff's reference to responses to other form interrogatories is improper. Pursuant to Code of Civil Procedure §2013.220, each response to an interrogatory "shall be as complete and straightforward as the information available to the responding party reasonably permits." Responses which summarily refer to other discovery responses without more

are neither complete nor straightforward. Code of Civil Procedure §2030.230 does, under certain limited circumstances, authorize a party to respond to interrogatories by referring to documents from which the answer to the interrogatories may be derived. Section 2030.230 provides that:

"If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed, and if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this section and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them."

Here, Plaintiff fails to demonstrate that responding to these interrogatories would "necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of [Plaintiff]," and therefore fails to demonstrate that it is proper for Plaintiff to invoke §2030.230 by referring to other documents (i.e., CBS's responses).

Accordingly, the Plaintiff is ordered to provide further substantive responses to nos. 2.8, 4.1, 6.7, 8.1, 8.7, 8.8, 9.1, 9.2, 10.1, 10.2, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 14.1, 14.2 which provide the information requested to the extent Plaintiff is reasonably able to do so, and which do not refer Goodman to other discovery responses. As to form interrogatory no. 17.1, this interrogatory asks Plaintiff Robert – for each of the requests for admissions as to which he did not make an unqualified admission – to state all facts on which he bases his response; the names, addresses and telephone numbers of all persons who have knowledge of those facts; and identify all documents/things that support his response and state the names/address/telephone number of the person who has each such document and thing.

Here, Plaintiff Robert's response to interrogatory no. 17.1 identifies requests for admissions 1-20 as ones he did not unqualifiedly admit, and then sets forth a single response as to the facts, witnesses, and documents supporting all 20 of his responses. However, form interrogatory no. 17.1 clearly asks for a separate identification of facts, witnesses, and documents "for each response" to requests for admissions that is not an unqualified admission. Plaintiff's lumping together of a single response for all 20 requests for admissions therefore is improper.

Plaintiff's response is also deficient because it fails to provide all of the information requested (e.g., the names/addresses/telephone numbers of witnesses, the documents which actually support Plaintiff's responses to the subject requests for admissions, and the names/addresses/telephone numbers of the persons who have such documents), and therefore is incomplete.

Based on the above, Plaintiff is ordered to serve Goodman's counsel, by no later than June 16, 2015, with (a) further responses to form interrogatories nos. 2.8, 4.1, 6.7, 8.1, 8.7, 8.8, 9.1, 9.2, 10.1, 10.2, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 14.1, and 14.2 which provide the information requested to the extent Plaintiff is reasonably able to do so, and which do not refer Goodman to other discovery responses; and (b) a further response to form interrogatory no. 17 which includes a separate response identifying the requested facts/witnesses/documents/etc. as to each request for admission which Plaintiff Robert failed

to unqualifiedly admit; and which provides all of the information requested.

Special Interrogatories

Defendant Goodman seeks an order compelling further responses to special interrogatories (set no. 1) nos. 3-10, 12-14, 16-18, 20-22, 24-26, and 28-33.

Plaintiff Robert's Objections

Plaintiff Robert responded to these special interrogatories with multiple objections, including attorney-client privilege, attorney work-product, vague and ambiguous, overbroad, unduly burdensome and harassing, information equally available to Goodman, calls for the disclosure/testimony of an expert, compound, assumes facts not in evidence, and/or argumentative. As noted above, Plaintiff Robert, as the party asserting objection to the special interrogatories, bears the initial burden of justifying them. Here, Plaintiff once again makes no attempt in his Opposition Brief to justify or support his objections to these interrogatories, and none of his objections are clearly well-taken on their face. Moreover, unlike with the requests for production, here there is no intermediate step available or required (i.e., requiring Plaintiff to provide a privilege log) with respect to Plaintiff's assertion of attorney-client privilege and attorney work product: Plaintiff is required to justify these assertions but fails to make any attempt to do so. Because Plaintiff fails to justify any of his objections to these interrogatories, he should be ordered to provide further responses to the interrogatories which omit all objections.

The Substantive Portions of Plaintiff Robert's Responses

With the exception of Plaintiff's responses to special interrogatories nos. 30 and 33, each of Plaintiff Robert's responses to the subject special interrogatories also contained a substantive portion. Goodman contends that these substantive responses are deficient.

As to interrogatory no. 3, Plaintiff's response is non-responsive in that it fails to describe the actual Goodman products that Plaintiff breathed asbestos from, and instead merely contains a very general description of asbestos-containing products allegedly manufactures/supplied/sold/brokered/distributed by Goodman or Amana (allegedly Goodman's predecessor-in-interest).

As to interrogatory no. 4, Plaintiff fails to provide the specific locations (i.e., addresses or names of sites, rather than just company names and city/county) where he allegedly breathed asbestos fibers released from a product manufactured/marketed by Goodman.

As to interrogatory no. 5, Plaintiff does not identify the witnesses separately for each location requested in interrogatory no. 4, and should be required to do so.

As to interrogatory no. 6, Plaintiff does not respond to the question separately for each location requested in request no. 4.

As to interrogatory no. 7, Plaintiff's response is non-responsive, as the interrogatory asks Plaintiff to describe with specificity that packaging of each asbestos-containing Goodman product Plaintiff was exposed to, and Plaintiff responds by identifying "all of Defendant's product sample or exemplars, boxes, cartons, containers, canisters, and packaging materials." Plaintiff has neither limited his response to Goodman products he was exposed to, nor has he provided any specific descriptions.

As to interrogatory no. 8, Plaintiff's response fails to separately identify documents as to the each of the locations requested in interrogatory no. 4, and is also grossly overbroad in that it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of documents that support Plaintiff's contention that he breathed asbestos fibers from a Goodman product at a specified

location.

Similarly, Plaintiff's answer to interrogatory no. 10 is also grossly overbroad in that it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of documents that support Plaintiff's contention that he was exposed to asbestos fibers from a product manufactured or marketed by Goodman.

As to interrogatory no. 13, Plaintiff's response is non-responsive, because it fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for negligence.

As to interrogatory nos. 14, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's negligence claim.

As to interrogatory no. 17, Plaintiff's response is non-responsive, because it fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for strict liability.

As to interrogatory no. 18, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's strict liability claim.

As to interrogatory no. 21, Plaintiff's response is non-responsive, because it fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for strict false representation.

As to interrogatory no. 22, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for false representation.

As to interrogatory no. 25, Plaintiff's response is non-responsive, because it fails to state specific facts that Plaintiff contends are known to witnesses with knowledge of facts supporting Plaintiff's claim for intentional tort.

As to interrogatory no. 26, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for intentional tort.

As to interrogatory no. 29, Plaintiff's response is overbroad because it identifies virtually the entire universe of documents potentially relevant to this case, rather than the subset of such documents that actually support Plaintiff's claim for punitive damages.

As to interrogatories nos. 30 and 33, Plaintiff failed to provide any substantive response and, due to Plaintiff's failure to justify any of his objections, is required to do so.

As to interrogatory no. 31, Plaintiff's response is non-responsive in that he neither breaks down its response as to each product, nor provides any list of components of such products that contained asbestos allegedly breathed by Plaintiff.

As to interrogatory no. 32, Plaintiff's response is entirely non-responsive.

Plaintiff should be ordered to provide further substantive responses to the above special interrogatories which cure the deficiencies noted above.

Based on the above, Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with further responses to the subject special interrogatories which (a) omit all objections; and (b) cure the deficiencies in the substantive portions of the responses noted above.

Requests for Admissions

Goodman seeks an order compelling further responses to requests for admissions (set no. 1) nos. 14

and 16-19. Plaintiff Robert responded to each of these requests for admissions by (a) asserting various objections (attorney-client privilege, attorney work production, vague and ambiguous, overbroad, compound, calls for a legal conclusion, assumes facts not in evidence, argumentative, calls for the evaluation/knowledge of an expert, and equally available to the propounding party); and (b) stating that: "After a reasonable search and diligent inquiry, Plaintiff is unable to admit or deny this request as phrased. Plaintiff's investigation and discovery are continuing."

As noted above, Plaintiff Robert, as the party asserting objection to the requests for admissions, bears the initial burden of justifying them. Here, Plaintiff once again makes no attempt in his Opposition Brief to justify or support his objections to these requests for admissions, and none of his objections are clearly well-taken on their face. Accordingly, he should be required to provide further responses to requests for admissions nos. 14 and 16-19 which omit all objects. As to the substantive portions of Plaintiff's responses, Plaintiff's response is an attempt to invoke Code of Civil Procedure §2033.220, subdivision (b)(3), which allows a party to respond to a request for admission by stating that he/she lacks sufficient information to omit or deny the request (or a portion thereof), and subdivision (c), which provides as follows:

"If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter."

Plaintiff's substantive responses are insufficient because Plaintiff fails to include the required statement that "the information known or readily obtainable is insufficient to enable the party to admit the matter." Accordingly, Plaintiff is required to provide further substantive responses which fully comply with the requirements of §2033.220(c).

Based on the above, Plaintiff is ordered to serve Defendant Goodman's counsel, by no later than June 16, 2015, with further responses to the subject requests for admissions which (a) omit all objections; and (b) include statements of inability to admit or deny which fully comply with Code of Civil Procedure §2033.220(c).

Sanctions

Pursuant to Code of Civil Procedure §§2030.300(d) (form and special interrogatories), 2031.310(h) (requests for production), and 2033.290(d) (requests for admissions), the Court would normally award Defendant Goodman, the prevailing party on these motions, monetary sanctions. In fact, the Court is troubled by Plaintiff's failure to comply with discovery, his (a) failure to respond to Defendant Goodman's "meet and confer" attempts; (b) assertion of numerous boilerplate objections, none of which Plaintiff even attempts to justify; and (c) general failure to provide Goodman with virtually any useful information in response to Goodman's comprehensive written discovery. However, as previously noted, the Court denies Defendant Goodman's request for monetary sanctions, solely on the ground that there is a procedural defect in Goodman's sanctions request which precludes any such award of sanctions, i.e., specifying by name which of the two plaintiffs Goodman is seeking sanctions against. (CCP § 2023.040.)

Despite the lack of sanctions, the Court is putting Plaintiffs' counsel on notice that the discovery responses at issue in the present motion are not acceptable, and that given Plaintiff's request for an expedited trial setting, continued discovery abuse of this kind could result in the imposition of evidentiary, issue, or other sanctions against Plaintiffs.

Notice to be given by Mr. Fishback.